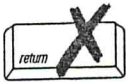


Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

A. Violation Information

Important:
When filling out
forms on the
computer, use
only the tab
key to move
your cursor -
do not use the
return key.



This Enforcement Order is issued by:

Stoneham
Conservation Commission (Issuing Authority)

July 9, 2015
Date

To:

Weiss Farm, Inc.
Name of Violator
170 Franklin Street, Stoneham, MA
Address

1. Location of Violation:

Property Owner (if different)

Street Address

City/Town

Zip Code

Assessors Map/Plat Number

Parcel/Lot Number

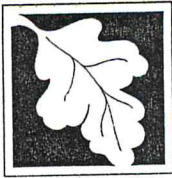
2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

See attachment A.

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

- ☒ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).



Massachusetts Department of Environmental Protection
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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

B. Findings (cont.)

☐ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Name

Dated

File Number

Condition number(s)

☐ The Order of Conditions expired on (date): _____ Date

☐ The activity violates provisions of the Certificate of Compliance.

☐ The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

☒ Other (specify):

The activity is being conducted in an area subject to protection under Chapter 11 of the Town of Stoneham Code and may be appealed in accordance with M.G.L. Chapter 249, Section 4.

C. Order

The issuing authority hereby orders the following (check all that apply):

- ☐ The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.
- ☒ Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

☒ A restoration plan shall be filed with the issuing authority on or before September 30, 2015
Date

for the following:

Work within the 25 foot undisturbed continuous strip (precedes Section 11.1).

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.



Massachusetts Department of Environmental Protection
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WPA Form 9 – Enforcement Order
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DEP File Number: _____

C. Order (cont.)

- ☐ Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

_____ Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

- ☐ The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

_____ Name

_____ Phone Number

_____ Hours/Days Available

Issued by:

_____ Conservation Commission

Conservation Commission signatures required on following page.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

Robert P. ...
Robert J. ...
Bar J. ...
Ellen ...

...
Robert A. ...

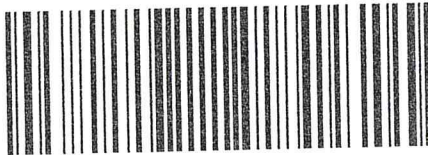
Catherine ...
Signature of delivery person or certified mail number

2015 JUN 22 A 8:43
STOHEHAN
TOWN CLERK
REGISTRARS

7004 0750 0002 2109 1569

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

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7004 0750 0002 2109 1569

U.S. Postal Service™

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

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Street Apt No.,
or PO Box No. *103 GROVE ST*

City, State, ZIP+4 *Beverly, MA 01915*

PS Form 3800, June 2002

See Reverse for Instructions

TRANSMITTAL

To: Donna Weiss

FROM: Conservation Commission

PHONE: 781-279-2696

DATE: July 14, 2015

Received: Jan Connor
Jan Connor

of PAGES

1 Sealed Envelope

Enforcement Order

Attachment A to WPA Form 9: Enforcement Order, Weiss Farm, Inc., 170 Franklin Street, Stoneham, Massachusetts

1. The site contains wetland resource areas, specifically Bordering Vegetated Wetlands (BVW), Land Under Water Bodies and Waterways (LUW), Bordering Land Subject to Flooding (BLSF), and Bank.
2. The practices and activities conducted on the Weiss Farm property have resulted in changes to hydrology, alteration of wetland resource areas, and have been the subject of enforcement actions taken by the Massachusetts Department of Environmental Protection. More specifically, an Administrative Consent Order with Penalty and Notice of Noncompliance was issued in 2006 (File No.: ACOP-NE-06-6W018) ("the 2006 ACOP") and an Administrative Consent Order and Notice of Noncompliance was issued in 2010, which remains in effect (File No.: ACO-NE-10-6W002) ("the 2010 ACO"). Paragraph 5. J. of the 2010 ACO states "However, this Consent Order shall serve to supplant and replace in its entirety the 2006 ACOP except that Exhibit A of the 2006 ACOP shall remain in full force and effect and shall be incorporated as part of this ACO."
3. Several former and ongoing activities have impacted state and local wetland resource areas. By failing to comply with the provisions of the 2006 ACOP and 2010 ACO; by failing to comply with the requirements of the Stoneham Wetlands Protection Bylaw; and by failing to restore the illegally altered wetlands to their original conditions, Weiss Farm continues to violate the Massachusetts Wetlands Protection Act and its wetlands regulations and Stoneham Wetlands Protection Bylaw. The failure to restore the activities conducted without a permit result in the requirement to restore under this enforcement order.
4. The Massachusetts Wetlands Protection Act, G.L. Chapter 131, Section 40, states, in relevant part,

"No person shall remove, fill, dredge or alter any bank, riverfront area, fresh water wetland, coastal wetland, beach, dune, flat, marsh, meadow or swamp bordering on the ocean or on any estuary, creek, river, stream, pond, or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding, other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, sewer, water, telephone, telegraph and other telecommunication services, without filing written notice of his intention to so remove, fill, dredge or alter, including such plans as may be necessary to describe such proposed activity and its effect on the environment and without receiving and complying with an order of conditions and provided all appeal periods have elapsed."

The Wetlands Protection Act defines several purposes, which are to determine if proposed activities are "...significant to public or private water supply, to the groundwater supply, to flood control, to storm damage prevention, to prevention of

pollution, to protection of land containing shellfish, to the protection of wildlife habitat or to the protection of fisheries ...” These are referred to as the interests of the Act and are also included in the Wetlands Protection Act regulations at 310 CMR10.01 (2).

And further:

“In addition to the other duties provided for in this section, a conservation commission and its agents, officers, and employees; the commissioner, his agents and employees; environmental officers, and any officer with police powers may issue enforcement orders directing compliance with this section and may undertake any other enforcement action authorized by law. Any person who violates the provisions of this section may be ordered to restore property to its original condition and take other actions deemed necessary to remedy such violations.

No person shall remove, fill, dredge or alter any area subject to protection under this section without the required authorization, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with an enforcement order issued pursuant to this section. Each day such violation continues shall constitute a separate offense except that any person who fails to remove unauthorized fill or otherwise fails to restore illegally altered land to its original condition after giving written notification of said violation to the conservation commission and the department shall not be subject to additional penalties unless said person thereafter fails to comply with an enforcement order or order of conditions.”

5. The Town of Stoneham Wetlands Protection Bylaw states, in relevant part, in Chapter 11

“A continuous strip no less than twenty-five (25) feet in width, untouched and in its natural state, shall be left undisturbed adjacent to those areas meeting the description of a “wetland” as identified in the Wetlands Protection Act, G.L. Ch 131. §40, and regulations hereunder (310 CMR 10.00). No person shall remove, fill, dredge, alter or build upon or within this strip.” (Unnumbered section)

The purpose of the Wetlands Protection Bylaw includes the following “resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, water pollution control, fisheries, shellfisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the community.” These are collectively referred to as the resource area values protected by the Bylaw.

“Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater or coastal wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies;

lands subject to flooding or inundation by groundwater or surface water; lands subject to tidal action, coastal storm flowage, or flooding; and lands abutting any of the aforesaid resource areas as set out in Section 11.8. (collectively the “resource areas protected by this bylaw”). Said resource areas shall be protected whether or not they border surface waters.” (Section 11.2)

And further, in Section 11.12:

“No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued hereunder by violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.”

6. The Regulations implementing the Wetlands Protection Act are located at 310 CMR 10.00 and with the regulations each wetland is defined as a resource area (e.g. Bordering Land Subject to Flooding, Bordering Vegetated Wetland). Each resource area is defined and has certain established presumptions of significance. Activities proposed within the resource areas must meet certain performance standards. The regulations specific to Bordering Vegetated Wetland are established at 310 CMR 10.55; the regulations specific to Bordering Land Subject to Flooding are established at 310 CMR 10.57; the regulations specific to Bank and Land Under Water are established at 310 CMR 10.54 and 10.56, respectively. Each is incorporated herein by reference.
7. Weiss Farm’s unpermitted activities, as documented below, have altered, impaired and have had an adverse effect on Bordering Vegetated Wetland, Land Under Water, and Bordering Land Subject to Flooding (“Resource Areas”), and in doing so, have adversely impaired and effected the interests of the Massachusetts Wetlands Protection Act and the resource area values of the Stoneham Wetlands Protection Bylaw. By failing to restore the wetlands to their original conditions, the alteration and impairment continue to have an adverse effect on each of the Resource Areas.

In addition, those activities mandated by the 2010 Administrative Consent Order and Notice of Noncompliance (File No.: ACO-NE-10-6W002) required approval under the

Stoneham Wetlands Protection Bylaw. Specifically, Section 10 states “Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondent or any other person of the necessity of complying with all applicable federal, state and local laws, regulations and approvals.”

8. Work Within the Wetlands Protection Act Buffer Zone and Local Bylaw 25 foot No-Disturb Zone has been conducted without a permit and there has been a failure to restore the illegally altered land to its original condition.

- a. Violation: Two stockpiles are located within 25 feet of Wetland Flags 28 and 31.3 as shown on the Existing Conditions Plan prepared by H. W. Moore for "The Commons at Weiss Farm", and title Topographic Plan Weiss Farm, 170 Franklin Street, Stoneham, MA Scale 1" = 60', dated May 20, 2013, prepared by Feldman Professional Land Surveyors, signed and stamped by Karl A. McCarthy, PLS on June 25, 2014 (“the Feldman Plan”).

The wetlands shown on the Feldman Plan extend up to the base of the stockpiles and are in an area shown on the U. S. D. A. Soil Survey Map for this site as Freetown Muck, which is defined by the National Cooperative Soil Survey, in part, as “very deep, very poorly drained organic soils formed in more than 130 centimeters of highly decomposed organic material.” Given that the limit of the stockpiles is also the limit of the flagged wetlands shown on the Feldman Plan, it is probably that the stockpiles are evidence of fill within the Freetown Muck.

Placement of fill over areas of Bordering Vegetated Wetlands and Bordering Land Subject to Flooding results in adverse impact to the ability of these Resource Areas to contribute to the Interests of the Massachusetts Wetlands Protection Act and of the resource area interests of the Stoneham Wetlands Protection Bylaw. The Wetlands Protection Act regulations establish the significance and functions of Bordering Vegetated Wetland at 310 CMR 10.55, which are incorporated herein by reference and include roles such as removal or detention of sediments, nutrients, providing an exchange of groundwater and surface water, acting to slow down and reduce the passage of flood waters during periods of peak flow. Additionally, during dry periods, the water retained in Bordering Vegetated Wetlands contributes to the maintenance of base flow levels in streams and rivers. Bordering Vegetated Wetlands play a role in wildlife habitat as well.

The Wetlands Protection Act regulations establish the significance and functions of Bordering Land Subject to Flooding at 310 CMR 10.57, which are incorporated herein by reference and include such values as provision of temporary storage for flood water which may overtop a stream, and by both retaining and detaining flood waters. Certain portions of Bordering Land Subject to Flooding play a role in wildlife habitat.

Placement of fill within and on top of Bordering Vegetated Wetland and Land Subject to Flooding results in the loss of the areas to perform the documented roles performed by both of these areas.

b. Required Action:

- i. The stockpiles shall be removed and
- ii. Once the stockpiles are removed, soils in the location where the stockpiles were placed shall be evaluated to determine whether the wetland extended interior from that shown on the Feldman plan and whether the stockpiles resulted in filling of Bordering Vegetated Wetland and Bordering Land Subject to Flooding. At least four (4) soil pits, distributed evenly across the area where the stockpiles were located, shall be conducted to a depth of 5 feet below existing grade and the soil profile shall be documented by a professional wetland/soil scientist. Photographs shall be taken.
- iii. The Commission reserves the right to issue additional enforcement actions or orders with respect to fill activities as further described in Section 13 below.

9. Work with the Wetlands Protection Act and Local Bylaw Bordering Vegetated Wetland and Land Under Waterway has been conducted without a permit and there has been a failure to restore the illegally altered land to its original condition:

a. Violation:

- i. Concrete debris was placed within Bordering Vegetated Wetland, Land Under Waterway, and Bordering Land Subject to Flooding. Although under the MassDEP 2010 ACO the DEP does not require removal of the concrete debris, under the local bylaw, the placement of the concrete debris is in violation of the bylaw Section 11.12 which states in part: "No person shall...leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition..." and of the 2010 ACO which requires compliance with local law and regulation.
- ii. The concrete debris is resulting in displacement and compaction of hydric soils, and is altering the vegetative community and has been doing so for the past two (2) years, thereby resulting in the inability of the resource area to function to support wildlife habitat (Section 11.10, which states in part "Except as otherwise provided in this bylaw or in regulations of the Conservation Commission, the definitions of terms and procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR10.00), which states under 310 CMR 10.56 (1): "The plant community composition and structure, hydrologic regime, topography, soil composition and water quality of land under water bodies and waterways provide important food, shelter, migratory and overwintering areas, and breeding areas for wildlife. Certain submerged, rooted vegetation is eaten by waterfowl and some mammals. Some amphibians...attach their eggs to such vegetation. Some aquatic vegetation protruding out of the water is also used for nesting, and many

specie use dead vegetation resting on land under water but protruding above the surface for feeding and basking. Soil composition is also important for hibernation and for animals which begin to burrow their tunnels under water..." Additionally, 310 CMR 10.55 (1) (incorporated herein by reference) states that the Hydrologic regime, plant community composition and structure, soil composition and structure, topography, and water chemistry of Bordering Vegetated Wetlands provide important food, shelter, migratory and overwintering areas, and breeding areas of many birds, mammals, amphibians and reptiles.

- iii. The concrete debris is resulting in displacement and compaction of hydric soils, and altered the vegetative community, thereby resulting in the inability of the resource area to function to prevent pollution (Section 11.10, which states in part "Except as otherwise provided in this bylaw or in regulations of the Conservation Commission, the definitions of terms and procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR10.00), which states under 310 CMR 10.56 (1): "The plants and soils of Bordering Vegetated Wetlands remove or detain sediments, nutrients ... and toxic substances...that occur in run-off and flood waters...Some nutrients and toxic substances are detained for years in plant root system or in the soils...).

- b. Required Action: Concrete debris shall be hand removed or removed with small equipment to minimize disturbance to vegetation. All work shall be conducted during low-flow periods. The applicant shall prepare a work plan documenting the extent of concrete debris and presenting the mitigation methods proposed. To the extent that vegetation is growing on fill resulting from placement of the concrete debris, such vegetation shall be documented and may need to be removed in order to restore the bordering vegetated wetland and bordering land subject to flooding to original conditions.

10. Work within Wetlands Protection Act and Local Bylaw Bordering Vegetated Wetland has been conducted without a permit and there has been a failure to restore the illegally altered land to its original condition.

- a. Violation: Excavation of ditch in Bordering Vegetated Wetland [and BLSF]. Weiss Farm excavated a ditch adjacent to flags WF A1 through A11, as shown on as shown on the Existing Conditions Plan prepared by H. W. Moore for "The Commons at Weiss Farm", and title Topographic Plan Weiss Farm, 170 Franklin Street, Stoneham, MA Scale 1" = 60', dated May 20, 2013, prepared by Feldman Professional Land Surveyors, signed and stamped by Karl A. McCarthy, PLS on June 25, 2014.

It is not clear that the ditch was dredged in response to the 2006 and 2010 ACOs. The ditch resulted in removal of hydric organic soils and is currently and has for the last two (2) years resulted in changes in hydrology, inability of the soils to

function to address the interests of the Wetlands Protection Act and the Stoneham Wetlands Protection Bylaw, and has overall changed the condition of the wet meadow, thereby altering wetland resource areas without a permit and causing a change in area to function to contribute to the interest of the Wetlands Protection Act and the Stoneham Wetlands Protection Bylaw.

The Wetlands Protection Act (G.L Chapter 131 Section 40) discusses the importance of Bordering Vegetated Wetlands, which are incorporated herein by reference. In addition, the regulations at 310 CMR 10.56 and 10.57 further define the presumptions of significance for Bordering Vegetated Wetland and Bordering Land Subject to Flooding, which are incorporated herein by reference.

The ditch was dredged in an area shown on the U. S. D. A. Soil Survey Map for this site as Freetown Muck, which is defined by the National Cooperative Soil Survey, in part, as “very deep, very poorly drained organic soils formed in more than 130 centimeters of highly decomposed organic material.” The ability of the organic soils to contribute to the interests of the Act and the resource area interests of the Bylaw are well documented, as described in the Wetlands Protection Act sections discussed above.

- b. Required Action: The 2010 ACO required the preparation of a “Drainage Study” (Paragraph G.) A Drainage Study was prepared by R. J. O’Connell dated November 2, 2009 (“the O’Connell Report”). Mr. Martin H. Wantman, an abutter, requested Benchmark Survey to review the R. J. O’Connell Report. Benchmark’s report was prepared on March 8, 2010 (“the Benchmark Drainage Study”). The two studies differ in their assessment of the watershed divide on the property. Because the changes in the hydrology associated with the dredging of a new ditch in Bordering Vegetated Wetland and Bordering Land Subject to Flooding, it is required that a current drainage study be prepared that determines where, on the property, the drainage divide is located.

Because there is no documentation of conditions prior to the dredging of the channel, it cannot be documented how the loss of the organic soils may be affecting the ability of the Bordering Vegetated Wetland to contribute to the Interests of the Act and the Bylaw. Therefore, this Enforcement Order is limited to mitigation associated with hydrology changes.

- 11. Construction and Maintenance of Pump Station Access Road and Weir has been conducted without a local wetlands bylaw permit and there has been a failure to maintain the roadway as specified in the ACOP.

- a. Violation: Construction of the access road to the pump station was conducted in response to the 2006 Administrative Consent Order with Penalty and Notice of Noncompliance (File No.: ACOP-NE-06-6W018).

The 2010 ACO states “this Order does not negate the need for obtaining all other permits...No permit from the Stoneham Conservation Commission was obtained.

The 2010 ACO specifies that the August 11, 2009 “Sedimentation Control Plan” be adhered to in order to “better manage the accumulation and treatment of stormwater runoff prior to pumping into adjacent resource areas”. The access road has not been maintained, and the Commission is unaware of the installation of a “check dam in the North/South drainage ditch that runs along the East side of the Weiss Farm property to address the accumulated stormwater to maintain a condition that does not allow flooding of the pump access road or further degrade wetland resource areas.” Paragraph E of the 2010 ACO. There is a backwater control dam (also referred to as “the weir”) in the North/South drainage ditch but it is in a state of disrepair. (See also Item 12 below.)

Construction of the pump access road resulted in the displacement of wetland and flood storage capacity. No permit was obtained from the Stoneham Conservation Commission to conduct the work. In addition, no mitigation was provided.

- b. Required Action: The access roadway shall be brought to grade such that it meets the conditions specified in the ACOP. In addition, the impact to floodplain altered by the construction of the access road shall be calculated and mitigation shall be provided as specified in the regulations implementing the Wetlands Protection Act (310 CMR 10.57) and the Stoneham Wetlands Protection Bylaw (Town Code Section 11). Specifically, mitigation shall be provided on an increment by increment basis for displaced floodplain.

12. Maintenance of Backwater Control Dam

- a. Violation: The August 11, 2009 “Sedimentation Control Plan”, revised October 5, 2009 proposed the installation of a Backwater Control Dam (also referred to as “the weir”).

The 2010 ACO states “this Order does not negate the need for obtaining all other permits...No permit from the Stoneham Conservation Commission was obtained.

According to discussions conducted during an April 25, 2015 site visit conducted by the Conservation Commission for a proposed development on the Weiss property (“The Commons at Weiss Farm”), the weir was noted as in a state of disrepair.

Additionally, as part of the submitted materials provided by the applicant for “The Commons at Weiss Farm”, the “purpose of the dam is to reduce the rate of flow to the Franklin Street culvert by restoring natural water levels in the large wetland area and directing flow to the westerly culvert. The large wetland area has storage capacity to buffer the peak flow rates from the northerly portion of the watershed. The dam and weir appear to be functioning maintaining water levels in the wetland area and reducing flow to Franklin Street. The east side of the

precast concrete dam has settled and should be repaired, there is a leak on the west side, and the wood weir should be replaced.” (Page 2, Weiss Farm Watershed Study, Stoneham, MA, May 6, 2015, Revised June 10, 2015, prepared for John M. Corcoran & Co, LLC, prepared by H. W. Moore Associates, Inc.)

- b. Required Action: The Backwater Control Dam shall be maintained to meet the conditions specified in the ACOP. In addition, the impact to floodplain altered by the construction of the backwater control dam shall be calculated and mitigation shall be provided as specified in the regulations implementing the Wetlands Protection Act (310 CMR 10.57) and the Stoneham Wetlands Protection Bylaw (Town Code Section 11). Specifically, mitigation shall be provided, if necessary, on an increment by increment basis for displaced floodplain.
13. Nothing in the Enforcement Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting the Commission’s right to a) issue any additional order or to seek other relief with respect to the subject matter covered by this Enforcement Order or to b) pursue any other claim, action, suit, cause of action, or demand which the Commission may have with respect to the subject matter covered by this Enforcement Order, including, without limitation, any action to enforce this Enforcement Order in an administrative or judicial proceeding.
14. A Notice of Intent shall be filed for each required mitigation action presented herein.